

# **EXHIBIT DX73**

TO DECLARATION OF PETER J GOSS IN  
SUPPORT OF REPLY TO DEFENDANTS'  
MOTION TO EXCLUDE OPINIONS AND  
TESTIMONY OF PLAINTIFFS' PLAINTIFFS'  
ENGINEERING EXPERTS

**From:** David W. Hodges  
**To:** J Randall Benham  
**CC:** Gabriel Assaad; Scott Augustine  
**Sent:** 5/1/2013 12:48:09 AM  
**Subject:** RE: Guide

Well, we are apparently now unavailable until 2:00 p.m. Do we want to try for next week?

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**From:** J Randall Benham [mailto:[rbenham@augbiomed.com](mailto:rbenham@augbiomed.com)]  
**Sent:** Tuesday, April 30, 2013 9:46 AM  
**To:** David W. Hodges  
**Cc:** Gabriel Assaad; Scott Augustine  
**Subject:** Re: Guide

Thanks.

Scott just told me he has a meeting at 2:00, so I will make the call closer to 1:00 to make sure we have all the time we need.

Randy

On 4/29/13 4:42 PM, "David W. Hodges" <[dhodges@kennedyhodges.com](mailto:dhodges@kennedyhodges.com)> wrote:

ok

Sent from my iPad

On Apr 29, 2013, at 1:53 PM, "J Randall Benham" <[rbenham@augbiomed.com](mailto:rbenham@augbiomed.com)> wrote:

Re: Guide Perfect. If it is OK, we will give you a call just after lunch— 1:30 or so.

Randy

On 4/29/13 3:43 PM, "David W. Hodges" <[dhodges@kennedyhodges.com](mailto:dhodges@kennedyhodges.com)> wrote:

How does Friday look for you? We are free all day.

For AAJ, I have an idea we can discuss.

Sent from my iPad

On Apr 29, 2013, at 1:23 PM, "J Randall Benham" <[rbenham@augbiomed.com](mailto:rbenham@augbiomed.com)> wrote:

Re: Guide Sounds great. Is there a day and time that we can talk?

Is there a better way to get an AAJ mailing list that gleaning it city by city from the AAJ website?

Randy

On 4/25/13 3:59 PM, "David W. Hodges" <[dhodges@kennedyhodges.com](mailto:dhodges@kennedyhodges.com)> wrote:

Yes, we would like to be the lead on this. Let's discuss next week.

Sent from my iPhone

On Apr 25, 2013, at 12:22 PM, "J Randall Benham" <[rbenham@augbiomed.com](mailto:rbenham@augbiomed.com)> wrote:

Guide  
David and Gabe,

Scott and I are preparing a detailed guide to suing 3M/Bair Hugger for orthopedic implant infections. It will contain background, summaries of and links to scientific articles, explanations of the etiology of joint infections, a timeline of 3M's knowledge and failure to warn, discovery suggestions...and a half-dozen other useful things.

We intend to offer it to other plaintiffs' firms around the country who express an interest in jumping on this bandwagon. Our staff is preparing a list of the email addresses of AAJ members who do this work, and we may do an email blast. Communications in the AAJ publications may also be a good idea.

My question: Would you like KH to be the author of this Guide? It would help establish KH as the leader in this area. Of course, if KH is the listed author, you guys will want to be comfortable with the content, and I will run everything past you. We are going forward either way, but I want to give you the opportunity if you are interested.

Randy